

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ANNIE CHANG, TIGER CHANG
INVESTMENTS, LLC, ASIANS
INVESTING IN REAL ESTATE, LLC,
MELANIE GONZALES GARY
GONZALES, and G&M YOU-NIQUES
PROPERTY LLC, Individually and On
Behalf of All Others Similarly situated,

Plaintiffs,

vs.

WELLS FARGO BANK, N.A.,

Defendant.

Case Number: 4:19-cv-01973-HSG

STIPULATED ORDER RE: DISCOVERY
OF ELECTRONICALLY STORED
INFORMATION FOR STANDARD
LITIGATION

1. PURPOSE

This Stipulated Order will govern discovery of electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of Electronically Stored Information, and any other applicable orders and rules.

2. COOPERATION

The parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the Discovery of ESI.

3. LIAISON

Each party will identify an “E-discovery Liaison” who will be primarily responsible for meeting and conferring concerning ESI. Each E-discovery Liaison will, at a minimum:

- a. Be knowledgeable about the party’s e-discovery efforts;
- b. Be, or have reasonable access to those who are, familiar with the party’s systems that may contain relevant information in this case in order to explain those systems and answer

1 relevant questions about the technical aspects of e-discovery, including the location, nature,
2 accessibility, format, collection, search methodologies, and production of ESI in this matter; and

3 c. Be, or have reasonable access to those who are, knowledgeable about the technical
4 aspects of e-discovery, including electronic document storage, organization, and format issues,
5 and relevant information retrieval technology, including search methodology.

6 The parties will rely on the E-Discovery Liaisons, as needed, to confer about ESI and to
7 help resolve disputes without court intervention.

8 4. PRESERVATION AND COLLECTION

9 The parties will take reasonable and proportional steps to preserve potentially relevant
10 non-duplicative ESI in their possession, custody or control. The parties also will disclose the
11 names and titles/roles of custodians and sources from which they are collecting documents in
12 response to the document requests, allegations and potential defenses.

13 5. SEARCH METHODOLOGY

14 The parties agree that if search terms, date filters, or technology assisted review is used to
15 cull data prior to review, the party using such filters will disclose them to opposing counsel and
16 provide the receiving party the opportunity to propose additional terms, where needed. At the
17 request of any party and in order to assist the parties in resolving search term disputes, the
18 producing party agrees to provide “hit reports” for proposed search terms, where providing such
19 hit reports does not pose an undue burden. The hit reports shall include, where reasonably
20 feasible, the total number of documents that were collected across custodians and sources, the
21 number of documents hit by each term, the number of documents hit and pulled in as families by
22 each term, the number of unique documents hit by each term, and finally, the aggregate number
23 of documents hit by each list of search terms, including document families. A party, however,
24 may not request that an inordinate number of hit reports be run. The parties will meet and confer
25 in good faith regarding a reasonable number search terms and/or terms and connectors be tested.
26 In addition, the parties will meet and confer should there be any disagreement regarding search
27 terms or other filtering methods used. No search term will be added to the list if it generates an
28

1 unreasonable number of nonresponsive documents or creates an undue burden. Focused terms
2 and queries, rather than overbroad queries should be employed.

3 A producing party may collect some documents without using search terms, but instead
4 doing “targeted” collections from custodians or sources based on documents custodians identify
5 in interviews or other discussions with counsel or by collecting folders or other sources
6 identified as containing responsive materials. No party has a duty to collect and process all data
7 from certain sources and run search terms if such collection, processing and searching creates an
8 undue burden or is not proportional to the needs of the case or where targeted collections are a
9 more efficient and effective way to gather the materials.

10 In the event that a party believes that validation of the search term process may be
11 necessary, the parties will meet and confer over what that validation process will be and what
12 testing and/or statistics will be disclosed.

13 The parties agree that, if they unilaterally select and apply search terms or a search
14 methodology without meeting and conferring with the receiving party to reach an agreed-upon
15 process, they may have to supplement or revisit their searches, if the searches prove to be
16 inadequate, using a methodology agreed-upon by the parties or approved by the Court.

17 The parties acknowledge that there may be subsequent instances where potential
18 modification to a previously agreed-upon search protocol may be warranted. Should such an
19 instance arise, the parties agree to meet and confer about methods to search ESI if either party
20 requests such a meet and confer. If a party requests such a meet and confer, the parties will meet
21 and confer within seven days or within another time period agreed up on by the parties.

22 6. PRODUCTION FORMATS

23 a. Hard Copy Documents:

24 All hard copy documents should be scanned and produced as single-page, Group IV, 300
25 DPI Tagged Image File Format (.TIFF or .TIF) images with an image load file (.OPT file and/or
26 .LFP file) and a delimited database/metadata load file (.DAT). The database/metadata load file
27 should contain the metadata fields listed in EXHIBIT A, to the extent such metadata exists and
28 extraction is reasonably feasible. The text file should contain that document’s OCR text unless

1 the party chooses not to OCR the document if, for example, the burden to OCR the documents
2 outweighs the benefit. In that case, the party will produce the documents as they are kept in the
3 ordinary course of business and provide the Bates ranges of documents that have not been
4 OCR'd and the receiving party may choose to OCR the documents themselves if they wish.
5 When a producing party OCRs documents, the OCR software should maximize text quality over
6 process speed. Settings such as "auto-skewing" and "auto-rotation" should be turned on during
7 the OCR process.

8 If an original document contains color necessary to understand the meaning or content of
9 the document, the document should be produced as single-page, 300 DPI, color JPG images with
10 the quality setting 75% or higher or the documents may be produced in native format. This
11 includes, but is not limited to, color on graphs, charts, presentations, edits, or highlights that
12 were made by hand, or electronically, on the original.

13 b. Electronically Stored Information:

14 ESI is to be produced in 300 DPI Group IV black and white TIFF files. The TIFF files
15 shall be produced in single-page format along with image load files (.OPT file and .LFP file). If
16 an original document contains color necessary to understand the meaning or content of the
17 document, the document should be produced as single-page, 300 DPI, color JPG images. This
18 includes, but is not limited to, color on graphs, charts, presentations, edits, or highlights.

19 Any responsive document that cannot be converted to TIFF format shall be represented
20 in the production with a placeholder TIFF image that bears the legend "This document cannot be
21 converted to TIFF," or similar language, along with its corresponding metadata in the
22 Concordance DAT file.

23 During the process of converting ESI from the electronic format of the application in
24 which the ESI is normally created, viewed and/or modified to TIFF, potentially relevant
25 metadata values should be extracted and produced in the database/metadata load file.

26 The metadata values that are to be extracted and produced in the database load files
27 (.DAT file using concordance standard delimiters), where the metadata fields exist and the
28 extraction is reasonably feasible, are the fields identified for electronic data on Exhibit A.

1 7. SYSTEM FILES EXCLUDED

2 Common system and program files as defined by the NIST library (which is commonly
3 used by discovery vendors to exclude system and program files from document review and
4 production) need not be processed, reviewed, or produced.

5 8. FAMILIES OF DOCUMENTS

6 To the extent a document is part of a “document family” with a combination of
7 privileged and non-privileged documents, the privileged documents will be represented in the
8 production with a placeholder TIFF image that bears the legend “Document Withheld as
9 Privileged” or similar text. The TIFF image(s) shall be endorsed with a sequential Bates
10 number. If nonresponsive documents are attached to a family and not produced, a TIFF
11 placeholder will be placed in place of the document that bears the legend, “Document Withheld
12 as Nonresponsive” or similar text. Although some documents may seem to be non-responsive as
13 stand-alone materials, when determining the responsiveness of such documents in families,
14 reviewers should review the documents in the context of the family as a whole, to ensure they
15 understand the full context of the attachments before determining responsiveness.

16 9. DEDUPLICATION

17 Removal of duplicate documents may be done for exact duplicate documents (based on
18 MD5 or SHA-1 hash values at the parent document level and deduplicating only identical
19 families) and may be done across custodians. A party may also deduplicate non-inclusive email
20 threads as follows: In an email thread, only the final-in-time document need be produced,
21 assuming that all previous emails in the thread are contained within the final message; that all
22 previous emails in the thread reflect full sender, recipient, and date and time stamp information;
23 and provided that the software used to identify these “non-inclusive” threads is able to identify
24 any differences to the thread such as changes in recipients (e.g., side threads, subject line
25 changes), dates, selective deletion of previous thread content by sender, etc. To the extent such
26 differences exist, documents with such differences shall be produced, assuming the thread is
27 responsive and nonprivileged. Where a prior email contains an attachment, that email and
28 attachment shall not be removed as a “non-inclusive thread.” To the extent that deduplication is

used, the parties expressly agree that a document produced from one custodian's file but not produced from another custodian's file as a result of deduplication will nonetheless be deemed as if produced from that other custodian's file for purposes of deposition, interrogatory, request to admit and/or trial. The custodian associated with the first copy of a document processed will be considered the primary custodian for that document (the custodian who will be used as the basis for determining which other collected documents are duplicates). Each production shall include an "All Custodian" field listing of every custodian or source collected for production and who/which possessed a duplicate document and where the document was deduplicated during processing. The "All Custodian" field will be updated by the producing party via an overlay file if rolling collections result in changes to the field post-production.

10. HANDWRITTEN NOTES, TRACK CHANGES OR OTHER ALTERATIONS

If there are any handwritten notes, or any other markings, on a document, it shall not be considered a duplicate. Any document that contains an alteration, handwritten note, marking on, or addition to the original document shall be treated as a distinct version, and shall be produced as such. These alterations include, but are not limited to, handwritten notes, electronic notes/tabs, edits, highlighting, or redlining.

The receiving party may request production of a color copy (in native or otherwise) of a document if it determines that such a color copy will assist in deriving the meaning of the document.

If a document contains track changes and/or comments, the producing party shall image the document showing the tracked changes and/or comments.

11. PRODUCTION OF EXCEL, OTHER SPREADSHEETS, AND POWERPOINTS

MS-Excel spreadsheets and other spreadsheets should be produced in native format with a TIFF placeholder bearing the legend "Produced in Native File Format" or something similar. PowerPoint documents should be produced in native format and in TIFF image format. The TIFF image shall be endorsed with a sequential Bates number and the produced native file named to match this Bates number. The metadata load file shall contain a link to the produced

1 native file via data values called “Native Link.” The Native Link values should contain the full
2 directory path and file name of the native file as contained in the produced media.

3 To the extent MS-Excel spreadsheets contain information subject to a claim of privilege,
4 they shall be produced in the form of a redacted .TIFF image (if the TIFF image can be rendered
5 in a readable format) or the producing party may redact the Excel in native format by inserted
6 “Redacted-Privileged” in the redacted portions of the Excel as long as the producing party keeps
7 a pristine copy of the Excel and identifies the documents that are natively redacted by way of a
8 field or in the production cover letter.

9 12. PRODUCTION OF STRUCTURED DATA OR OTHER FILES NOT COVERED

10 If a database or other source of structured data contains responsive information that
11 cannot be produced in a reasonably useable format, the parties should promptly meet and confer
12 to determine a mutually-agreeable format for production of the responsive data.

13 13. PASSWORD PROTECTED FILES

14 The parties will make reasonable proportional efforts to ensure that all responsive
15 encrypted or password-protected documents and ESI are successfully processed for review and
16 production. To the extent encrypted or password-protected documents are successfully
17 processed, the parties have no duty to identify further the prior encrypted status of such
18 documents. To the extent security protection for such documents and ESI cannot be successfully
19 processed despite reasonable efforts and a party has identified the documents as potentially
20 responsive, the producing party shall notify the requesting party about such documents prior to
21 production and the parties shall meet and confer in good faith regarding reasonable efforts or
22 mechanisms to remove such encryption or password protection with respect to the production of
23 available metadata. When producing such encrypted files, the producing party shall: (a) produce
24 a slip sheet stating that the documents cannot be decrypted or something similar; and (b) provide
25 the metadata required by Exhibit A to the extent it can be reasonably extracted from the file in its
26 encrypted form.

1 14. PRODUCTION OF AUDIO AND VIDEO FILES

2 If any audio and/or video recordings are responsive, and the producing party cannot
3 produce the recordings in a reasonably useable format, the parties should meet and confer to
4 determine a mutually-agreeable format for producing the audio and/or video recording. Before
5 meeting and conferring, the producing party will have information sufficient to identify
6 responsive audio and/or video recordings.

7 15. BATES NUMBERING AND CONFIDENTIALITY DESIGNATION

8 Bates number and any confidentiality designation should be electronically branded on
9 each produced TIFF image of ESI but need not be included in the extracted text of ESI.

10 16. REDACTIONS

11 Each redaction on a document shall be endorsed with the word “Redacted” or
12 “Redaction,” or something similar, with that word being included in the text provided for the
13 document. Alternatively, the producing party may produce a field in the DAT file denoting
14 which documents contain redactions.

15 To the extent a natively produced document needs to be redacted because it contains
16 information subject to the attorney-client privilege or any other privilege or protection from
17 disclosure, the native document may be TIFFed and the redactions applied, or the party may
18 redact the document natively if the document cannot be TIFFed in a readable format (such as
19 Excel spreadsheets, as noted above).

20 17. PRIVILEGE LOGS

21 For all documents withheld or redacted on the basis of privilege, the parties agree to
22 furnish logs that comply with the legal requirements under federal law, but at a minimum will
23 include the following information unless providing such information would be disproportional
24 and impose an undue burden, given the number of privileged documents and in that case, the
25 parties will meet and confer regarding an alternate process:

- 26 a. A Document ID or Bates Number for each entry on the log.
- 27
- 28

- b. The date of document. For emails, this should be the sent date of the document and for loose ESI this should be the last-modified or create date of the document or if those dates are not available, another reasonably available date.
- c. The Author of the document. For emails, this should be populated with the metadata extracted from the "Email From" field associated with the file. For loose ESI, this should be populated with the metadata extracted from the "Author" field; if such field contains generic information such as the company name, a party may substitute the information contained in the "Custodian" metadata field.
- d. If the document is an e-mail, the Subject Line of the e-mail (unless the Subject Line itself contains privileged information).
- e. Recipient(s) of the document where reasonably ascertainable. For emails this should be populated with the metadata extracted from the "Email To" field associated with the file. Separate columns should be included for the metadata extracted from the "Email CC" and "Email BCC" fields, where populated. For emails, this shall include, in addition to the Recipient(s)' name(s), the e-mail address for each recipient, if that information is reasonably available in one of the metadata fields.
- f. A description of why privilege is being asserted over the document.
- g. If a document has attachments, the attachments will be separately logged if they are also being withheld for privilege.
- h. The type of privilege being asserted, e.g., AC for Attorney/Client or WP for Attorney Work Product.

The parties shall identify on their logs the name(s) of counsel providing the advice/who is relevant to the privilege claim in the description (17(f)).

A party shall only be required to include one entry on the privilege log to identify withheld emails that constitute an e-mail chain or string, provided, however, that the privilege log entry for any e-mail chain or string: (1) shall identify that the emails are part of an email chain or string; (2) shall identify the senders and recipients of the top e-mail in the chain, and (3) any third parties

1 in the chain will be identified in the privilege log description (17(g)) along with a description of
2 the third parties' relationship to the client. Should a party have questions about all recipients in
3 particular e-mail chains on the log, the parties will meet and confer and provide additional
4 information where necessary and where obtaining the information does not involve an undue or
5 disproportional burden. If a party is only reviewing inclusive e-mail threads, it will add to the log
6 the recipient metadata (to/from/cc/bcc) for the non-inclusive threads associated with the inclusive
7 threads on the log.

8 Privilege logs shall be provided in searchable Microsoft Excel format.

9 Privilege logs may be produced on a rolling basis. The producing party shall provide the
10 first Privilege Log within thirty (30) days of the first production date and then supplemental logs
11 thereafter will be provided at regular intervals. Privilege log entries for redacted and/or withheld
12 documents in a specific production or that are family members to documents in a specific
13 production shall be produced within 30 days after each specific production is made. In addition,
14 a final log will be produced 20 days following the last production date.

15 Documents presumptively not to be logged on a privilege log include:

- 16 a. Communications exclusively between a party or its counsel of record or in-house
17 counsel handling this matter dated after the commencement of the Action.
- 18 b. Work product created by counsel of record in this action, an agent of counsel of
19 record, or a party at the direction of counsel of record or in-house counsel handling
20 this action, dated after commencement of the Action.

21 The parties agree that no party is required to conduct a search or prepare a privilege log for
22 any discovery request or portion thereof to which objections have been made until the objections
23 have been overruled.

24 The parties agree that no discovery shall be conducted, absent good cause shown, as to
25 topics relating to discovery on discovery, retention policies, search efforts in this matter, and/or
26 documents or information that are classic work product or privileged such as materials generated
27 by attorneys in this case, Wells Fargo's in-house counsel and/or those working under their
28 direction or supervision as a result of this lawsuit.

18. MODIFICATION

This Stipulated Order may be modified by agreement of the parties or by the Court for good cause shown.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: May 26, 2020

/s/ Eve H. Cervantez
ALTSHULER BERZON LLP
Eve H. Cervantez

Attorneys for Plaintiffs Annie Chang, Tiger Chang Investments, LLC, Asians Investing i Real Estate, LLC, Melanie Gonzales, Gary Gonzales, and G&M You-Niques Property LLC

DATED: May 26, 2020

/s/ Nellie E. Hestin
MCGUIREWOODS LLP
Nellie E. Hestin (*pro hac vice*)

Attorneys for Defendant Wells Fargo Bank, N.A.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 5/27/2020



United States District Court Magistrate Judge

ECF ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from each of the other signatories thereto.

Executed this 26th day of May, 2020, in San Francisco, California.

/s/Eve H. Cervantez

Eve H. Cervantez

EXHIBIT A**METADATA FIELDS**

Field Name	Description	Example / Format	Applicable File Types
BEGBATES	The Document ID number of first page of the document.	ABC0000001	E-mail, E-Doc and Other ¹
ENDBATES	The Document ID number of the last page of a document.	ABC0000003	E-mail, E-Doc and Other
BEGATTACH	The Document ID number of the first page of the parent document.	ABC0000001	E-mail, E-Doc and Other
ENDATTACH	The Document ID number of the last page of the last attachment.	ABC0000008	E-mail, E-Doc and Other
CONFIDENTIALITY	The level of confidentiality assigned to the document by Counsel	Confidential	E-mail, E-Doc and Other
PGCOUNT	The number of pages in a document. (image records)	Numeric	E-mail, E-Doc and Other
CUSTODIAN	The custodian / sources of a document from which the document originated.	Smith, Joe	E-mail, E-Doc and Other
ALLCUSTODIANS	Other custodians the producing party agreed to produce who had the file but where the file was eliminated through de-duplication	Smith, Joe; Doe, Jane	E-mail, E-Doc
RECORD TYPE	The type of document / record.	Email, hard copy, loose eFile	E-mail, E-Doc and Other
EMAIL SUBJECT	The subject line of the e-mail.		E-mail
EMAIL FROM	The display name and e-mail of the author of an e-mail.	Joe Smith <jsmith@email.com>	E-mail
EMAIL TO	The display name and e-mail of the recipient(s) of an e-mail.	Joe Smith <jsmith@email.com> ; tjones@email.com	E-mail

¹ Other is defined as documents maintained in image file format or that were scanned from hard copy.

SEPT 11 2020
 ORDER RE: DISCOVERY OF ELECTRONICALLY STORED
 INFORMATION FOR STANDARD LITIGATION
 CASE NUMBER: 4:19-CV-01973-HSG

Field Name	Description	Example / Format	Applicable File Types
EMAIL CC	The display name and e-mail of the copyee(s) of an e-mail.	Joe Smith <jsmith@email.com> ; tjones@email.com	E-mail
EMAIL BCC	The display name and e-mail of the blind copyee(s) of an e-mail.	Joe Smith <jsmith@email.com> ; tjones@email.com	E-mail
NUMBER OF ATTACHMENTS	The number of attachments to a parent.	Numeric	E-mail; Edoc
ATTACHMENT NAME	The original file name of attached record.	Attach1.doc	E-mail; Edoc
DATE RECIEVED²	The date the document was received.	MM/DD/YYYY	E-mail
RECEIVED TIME	The time the document was received.	HH:MM	E-mail
DATE SENT	The date the document was sent.	MM/DD/YYYY	E-mail
SENT TIME	The time the document was sent.	HH:MM	E-mail
IMPORTANCE	E-mail Importance Flag.	Normal, Low, High	E-mail
CONVERSATION INDEX	ID used to tie together e-mail threads.	01C72AC4C	E-mail
TIME ZONE FIELD	The time zone that the data is set to when processed.	PST, CST, EST, etc.	E-mail; Edoc
FILE NAME	The file name of a native document.	Document Name.xls	E-doc
AUTHOR	The author of a document from extracted metadata.	jsmith	E-doc
TITLE	The extracted title of the document.	Table of Contents	E-doc
RELATIVITY NATIVE TYPE	Native file application.	Microsoft Excel, Word, etc.	E-doc
FILE EXTENSION	The file extension of a document.	XLS	E-doc
HIDDEN CONTENT	Field noting whether there are hidden columns in Excel, and track changes in Word. This may be provided in separate fields (Excel Hidden Columns; Excel Hidden Rows; Excel	Y,N,Blank	E-doc

² Date and Time fields for all date and time fields shown in Exhibit A may be combined in one field.

Field Name	Description	Example / Format	Applicable File Types
	Hidden Sheets; Powerpoint Hidden Slides; Track Changes)		
DATE CREATED	The date created field	MM/DD/YYYY	E-doc
FILE CREATE TIME	The time created field	HH:MM	E-doc
DATE LAST MODIFIED	The date the document was last modified.	MM/DD/YYYY	E-doc
DATE LAST ACCESSED	The date the document was last accessed.	MM/DD/YYYY	E-doc
APPOINTMENT START ³	Date of calendar appointment entry.	MM/DD/YYYY	Calendar Items
TIME APPOINTMENT START	Start time of calendar appointment entry.	HH:MM	Calendar Items
APPOINTMENT END	End date of calendar appointment entry	MM/DD/YYYY	Calendar Items
TIME APPOINTMENT END	End time of calendar appointment entry.	HH:MM	Calendar Items
FILESIZE	The file size of a document (including embedded attachments).	Numeric	E-doc
ORIGINAL FOLDER PATH	Location of the original document / location in the ordinary course of business. This field should be populated for email and e-files.	Joe Smith/E- mail/Inbox Joe Smith/E-mail/Deleted Items	E-doc; Email
MD5HASH	The MD5 Hash value or de-duplication key assigned to a document.		
NATIVE LINK	The full path to a native copy of a document.	D:\NATIVES\ABC0 00001.xls	
FULLTEXT	The path to the full extracted text of the document. There should be a folder on the deliverable, containing a separate text file per document. These text files should be named	D:\TEXT\ABC00000 1.txt	

³ As with the other date fields, appointment fields may have date and time combined in one field.
 INFORMATION FOR STANDARD LITIGATION
 CASE NUMBER: 4:19-CV-01973-HSG

Field Name	Description	Example / Format	Applicable File Types
	with their corresponding bates numbers. Note: E-mails should include header information: author, recipient, cc, bcc, date, subject, etc. If the attachment or e-file does not extract any text, then OCR for the document should be provided.		